

# House File 2535 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO HSB 692)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to child care by revising requirements for child  
2 care homes and child development homes, restricting the  
3 presence of certain registered sex offenders on the premises  
4 of child care providers, and providing penalties, an  
5 appropriation, and an effective date.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
7 TLSB 5970HV 82  
8 jp/nh/5

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1 1 DIVISION I  
1 2 FISCAL YEAR 2008=2009 REQUIREMENTS  
1 3 Section 1. NEW SECTION. 237A.3B CHILD CARE HOMES AND  
1 4 CHILD DEVELOPMENT HOMES == REQUIREMENTS.  
1 5 1. Each child care home or child development home provider  
1 6 shall conspicuously post signage in the home providing all of  
1 7 the following:  
1 8 a. Identification of the provider as an unregistered child  
1 9 care home or a registered child development home.  
1 10 b. Information expressly stating that the provider is  
1 11 prohibited from inflicting corporal punishment on a child  
1 12 receiving child care and listing the prohibited forms of  
1 13 corporal punishment identified in section 237A.18. The  
1 14 information shall also explain how to file a complaint with  
1 15 the department if the provider is alleged to have inflicted  
1 16 corporal punishment on a child other than a child for whom the  
1 17 provider is the child's parent, guardian, or custodian.  
1 18 2. This section does not apply to a person who is only  
1 19 providing care to one or more children for whom the person is  
1 20 the parent, grandparent, guardian, or custodian.  
1 21 Sec. 2. Section 237A.5, subsection 2, paragraph a,  
1 22 subparagraph (3), Code 2007, is amended by adding the  
1 23 following new subparagraph subdivision:  
1 24 NEW SUBPARAGRAPH SUBDIVISION. (f) The person has been  
1 25 determined, through an investigation by the department of a  
1 26 complaint, a child abuse assessment, or the existence of a  
1 27 criminal record, to have inflicted corporal punishment as  
1 28 described in section 237A.18 on an individual receiving child  
1 29 care from the person.  
1 30 Sec. 3. NEW SECTION. 237A.18 CORPORAL PUNISHMENT.  
1 31 1. For the purposes of this section, "corporal punishment"  
1 32 includes but is not limited to spanking, slapping, shaking,  
1 33 punishment which is humiliating or frightening, using  
1 34 restraints, or enclosing a child in a locked area.  
1 35 2. A person who operates, is employed by, or resides in a  
2 1 child care home, child development home, or child care center  
2 2 shall not inflict corporal punishment on an individual  
2 3 receiving care from the child care home, child development  
2 4 home, or child care center. This section does not apply to  
2 5 corporal punishment inflicted on an individual by a person who  
2 6 is the individual's parent, guardian, or custodian.  
2 7 3. A person who has inflicted corporal punishment on an  
2 8 individual receiving care from the child care home, child  
2 9 development home, or child care center in violation of this  
2 10 section, as determined through an investigation by the  
2 11 department of a complaint, a child abuse assessment, or  
2 12 existence of a criminal record, may be subject to prohibition  
2 13 of involvement with child care in accordance with section  
2 14 237A.5.

2 15 Sec. 4. NEW SECTION. 692A.3B PRESENCE ON THE REAL  
2 16 PROPERTY COMPRISING A CHILD CARE FACILITY OR CHILD CARE HOME  
2 17 == RESTRICTION.  
2 18 1. As used in this section, "child care provider" includes  
2 19 a "child care center", "child care home", "child development  
2 20 home", and "preschool" as those terms are defined in section  
2 21 237A.1, and a "child care program" as defined in section  
2 22 279.49 and authorized in section 280.3A.  
2 23 2. A person required to register under this chapter who  
2 24 has been convicted of a criminal offense against a minor, or  
2 25 an offense involving a minor that is an aggravated offense,  
2 26 sexually violent offense, or other relevant offense, shall not  
2 27 be knowingly present on the real property comprising a child  
2 28 care provider, except under one of the following  
2 29 circumstances:  
2 30 a. The person is transporting a minor who is a child of  
2 31 the person to or from the child care provider.  
2 32 b. The person is responding to a health or behavioral  
2 33 emergency regarding a minor who is the child of the person.  
2 34 c. The person has been summoned to discuss the  
2 35 developmental activity or social progress of a minor who is a  
3 1 child of the person.  
3 2 d. The person is voting in the building in which the child  
3 3 care provider is located during the hours designated to vote.  
3 4 3. The child care provider's owner or administrator shall  
3 5 provide notice to the parents, guardians, or custodians of the  
3 6 children receiving child care from the child care provider  
3 7 about the presence of a person on the real property comprising  
3 8 the child care provider, as authorized in accordance with  
3 9 subsection 2.  
3 10 4. A person required to register under this chapter who  
3 11 commits a violation of this section commits an aggravated  
3 12 misdemeanor.

3 13 Sec. 5. CHILD CARE WORKGROUP. There is appropriated from  
3 14 the general fund of the state to the department of human  
3 15 services for the fiscal year beginning July 1, 2008, and  
3 16 ending June 30, 2009, the following amount, or so much thereof  
3 17 as is necessary, to be used for the purpose designated:

3 18 For costs associated with the child care workgroup  
3 19 established pursuant to this section:

3 20 ..... \$ 100,000

3 21 1. a. The state child care advisory council established  
3 22 pursuant to section 237A.21 shall serve as a workgroup to  
3 23 address implementation of the provisions of this Act and the  
3 24 issues identified in this section.

3 25 b. The workgroup shall submit a report with findings and  
3 26 recommendations to the governor and the general assembly on or  
3 27 before December 15, 2008, to address possible implementation  
3 28 of a mandatory system of registration or licensure for  
3 29 home-based child care providers or a voluntary licensure  
3 30 system and the other issues addressed by the workgroup in  
3 31 accordance with this section.

3 32 c. The workgroup shall address the implementation issues  
3 33 associated with a change in child care regulation to mandatory  
3 34 registration as described in paragraph "b". The issues  
3 35 considered shall include but are not limited to planning for  
4 1 the phase-in of and costs for additional inspection visits of  
4 2 child development homes, increased expenses for state child  
4 3 care assistance program slots, revising state child care  
4 4 assistance program reimbursement methodologies to reward  
4 5 quality, and other implementation issues.

4 6 2. a. The workgroup shall cooperate with early childhood  
4 7 stakeholders and the private sector in addressing the many  
4 8 publicly supported programs and services directed to early  
4 9 childhood and issues involved with redirecting the programs  
4 10 and services to be part of a cohesive child care system.

4 11 b. The issues addressed shall include professional  
4 12 development of workers, improving the workforce, ensuring  
4 13 articulation between programs, meeting the needs of both  
4 14 children and parents, enhancing community engagement to  
4 15 support early childhood, and other efforts to address early  
4 16 childhood needs with a coordinated system.

4 17 3. In addition, the workgroup shall explore other issues,  
4 18 including but not limited to all of the following:

4 19 a. Using the internet to provide information to child care  
4 20 providers, capacity for providers to register with the  
4 21 department of human services via the internet, and training  
4 22 information.

4 23 b. Creating a database of all child care providers.

4 24 c. Streamlining and coordinating inspections of home-based  
4 25 child care providers.

4 26 d. Providing health care insurance for providers and their  
4 27 workers.  
4 28 e. Educating the public on the advantages of using a  
4 29 registered child care provider.  
4 30 f. Developing possible sanctions for violations at child  
4 31 care facilities other than closing the facilities.  
4 32 g. Requiring a state and federal fingerprint-based  
4 33 criminal history record check for all licensed and registered  
4 34 child care providers as well as unregistered child care home  
4 35 providers as provided in division II of this Act.  
5 1 Recommendations made for purposes of this paragraph shall  
5 2 include but are not limited to options for the phasing in of  
5 3 required fingerprint-based checks and addressing the frequency  
5 4 with which such checks should be required.  
5 5 h. Providing additional opportunities and resources for  
5 6 child care providers and instructing the Iowa state university  
5 7 of science and technology cooperative extension service in  
5 8 agriculture and home economics, child care resource and  
5 9 referral agencies, and community colleges to expand continuing  
5 10 education opportunities offered at times the providers are not  
5 11 providing care.  
5 12 i. Implementing an electronic benefit transfer program to  
5 13 pay for state child care assistance.

5 14 DIVISION II

5 15 FISCAL YEAR 2009=2010 REQUIREMENTS

5 16 Sec. 6. Section 237A.3, subsection 2, Code 2007, is  
5 17 amended to read as follows:

5 18 2. a. A person shall not provide child care as a child  
5 19 care home provider unless the person and any person who  
5 20 resides or will reside in the child care home have been  
5 21 subject to a fingerprint-based national criminal history  
5 22 record check in accordance with section 237A.5.

5 23 b. If a person or program does not comply with paragraph  
5 24 "a" or has been prohibited by the department from involvement  
5 25 with child care, the person or program shall not provide child  
5 26 care as a child care home provider and is subject to penalty  
5 27 under section 237A.19 or injunction under section 237A.20 for  
5 28 doing so.

5 29 Sec. 7. Section 237A.5, subsection 2, paragraph a,  
5 30 subparagraph (1), subparagraph subdivision (e), Code 2007, is  
5 31 amended to read as follows:

5 32 (e) The person will provide or is providing child care as  
5 33 a child care home provider or will reside or resides in a  
5 34 child care home that is not registered under this chapter but  
5 35 that receives public funding for providing child care.

6 1 Sec. 8. Section 237A.5, subsection 2, paragraphs b and c,  
6 2 Code 2007, are amended to read as follows:

6 3 b. If an individual person subject to a record check is  
6 4 being considered for employment by a child care facility or  
6 5 child care home, in lieu of prior to requesting a  
6 6 fingerprint-based record check to be conducted by the  
6 7 department under paragraph "c", the child care facility or  
6 8 child care home may access the single contact repository  
6 9 established pursuant to section 135C.33 as necessary to  
6 10 conduct a criminal and child abuse record check of the  
6 11 individual in this state. A copy of the results of the record  
6 12 check conducted through the single contact repository shall  
6 13 also be provided to the department. If the record check  
6 14 indicates the individual is a person subject to an evaluation,  
6 15 the child care facility or child care home may request that  
6 16 the department perform an evaluation as provided in this  
6 17 subsection. Otherwise, the individual shall not be employed  
6 18 by the child care facility or child care home. The cost of  
6 19 accessing the single contact repository is the responsibility  
6 20 of the child care facility or home.

6 21 c. (1) Unless a record check has already been conducted  
6 22 in accordance with paragraph "b", For a person subject to a  
6 23 record check, in addition to any record check conducted  
6 24 pursuant to paragraph "b" and the record checks conducted  
6 25 under subparagraph (2), the person's fingerprints shall be  
6 26 provided to the department of public safety for submission  
6 27 through the state criminal history repository to the United  
6 28 States department of justice, federal bureau of investigation  
6 29 for a national criminal history record check. For a child  
6 30 care home that is not registered under this chapter, the cost  
6 31 of the national criminal history record check for a person who  
6 32 will provide or is providing child care or will reside or  
6 33 resides in that child care home shall be paid by the person.  
6 34 Otherwise, the cost of the national criminal history record  
6 35 check and any other record checks conducted under this  
7 1 lettered paragraph is the responsibility of the department.

7 2 (2) In addition to the national criminal history record  
7 3 check, the department shall conduct a criminal and child abuse  
7 4 record check in this state for a person who is subject to a  
7 5 record check and may conduct such a child abuse record check  
7 6 in other states. In addition, the department may conduct a  
7 7 dependent adult abuse, sex offender registry, or other public  
7 8 or civil offense record check in this state or in other states  
7 9 for a person who is subject to a record check. If record  
7 10 checks of a person who is subject to a record check have been  
7 11 conducted through the single contact repository as described  
7 12 in paragraph "b", the department may forego the record checks  
7 13 addressed by this subparagraph.

7 14 (3) If a record check performed pursuant to this lettered  
7 15 paragraph identifies an individual as a person subject to an  
7 16 evaluation, an evaluation shall be performed to determine  
7 17 whether prohibition of the person's involvement with child  
7 18 care is warranted. The evaluation shall be performed in  
7 19 accordance with procedures adopted for this purpose by the  
7 20 department.

7 21 (4) Prior to performing an evaluation, the department  
7 22 shall notify the affected person, licensee, registrant, or  
7 23 child care home applying for or receiving public funding for  
7 24 providing child care, that an evaluation will be conducted to  
7 25 determine whether prohibition of the person's involvement with  
7 26 child care is warranted.

7 27 Sec. 9. EFFECTIVE DATE. This division of this Act takes  
7 28 effect July 1, 2009.

7 29 DIVISION III  
7 30 IMPLEMENTATION

7 31 Sec. 10. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
7 32 3, shall not apply to this Act.

7 33 EXPLANATION

7 34 This bill relates to child care by revising requirements  
7 35 for child care homes and child development homes, restricting  
8 1 the presence of certain registered sex offenders on the  
8 2 premises of child care providers, requiring fingerprint-based  
8 3 criminal history record checks, and providing penalties and an  
8 4 appropriation. The bill is organized into divisions.

8 5 FISCAL YEAR 2008=2009 REQUIREMENTS. This division relates  
8 6 to requirements to be implemented during FY 2008=2009.

8 7 Code section 237A.5, relating to records checks and other  
8 8 provisions involved with prohibiting certain persons from  
8 9 involvement with child care, is amended to include inflicting  
8 10 of corporal punishment as described in the bill's new Code  
8 11 section 237A.18 in the list of transgressions that must be  
8 12 evaluated by the department of human services to determine if  
8 13 the transgression warrants prohibition of the person's  
8 14 involvement with child care.

8 15 New Code section 237A.18 defines the term "corporal  
8 16 punishment", prohibits any person providing child care or  
8 17 living where child care is provided from inflicting corporal  
8 18 punishment on children receiving care, and states that such a  
8 19 person who inflicts corporal punishment may be prohibited from  
8 20 involvement with child care. The provision does not apply to  
8 21 corporal punishment inflicted on an individual by the person  
8 22 who is the individual's parent, grandparent, guardian, or  
8 23 custodian.

8 24 For purposes of new Code section 692A.3B, the term "child  
8 25 care provider" is defined using terms from Code chapter 237A  
8 26 to include a "child care center" (a facility providing child  
8 27 care or preschool services for seven or more children, except  
8 28 when the facility is registered as a child development home),  
8 29 "preschool" (a licensed center or registered child development  
8 30 home providing programs to children ages three through five  
8 31 for up to three hours per day), "child development home" (a  
8 32 registered home that may provide child care to six or more  
8 33 children at any one time), or "child care home" (a home in  
8 34 which child care is provided to five or fewer children at any  
8 35 one time that is not registered). These terms are defined in  
9 1 Code section 237A.1. In addition, "child care provider"  
9 2 includes child care operated by or contracted for by a school  
9 3 board or the authorities in charge of an accredited nonpublic  
9 4 school, provided the child care meets standards adopted by the  
9 5 state board of education.

9 6 New Code section 692A.3B provides that a registered sex  
9 7 offender who has been convicted of a criminal offense against  
9 8 a minor, or an offense involving a minor that is an aggravated  
9 9 offense, sexually violent offense, or other relevant offense,  
9 10 shall not be present on the real property comprising a child  
9 11 care provider. However, the following exceptions are  
9 12 provided: a sex offender may be present on child care

9 13 provider property if the sex offender is transporting the  
9 14 offender's child to or from the child care provider, the  
9 15 offender is responding to a health or behavioral emergency  
9 16 regarding the offender's child, the sex offender is summoned  
9 17 to discuss the developmental activity or social progress of  
9 18 the offender's child, or the sex offender is voting in an  
9 19 election during the designated hours to vote.

9 20 The child care provider owner or administrator is required  
9 21 to provide notice to the parents, guardians, or custodians of  
9 22 the children receiving child care about the presence of a sex  
9 23 offender on the child care provider's premises.

9 24 A sex offender who violates new Code section 692A.3B  
9 25 commits an aggravated misdemeanor. An aggravated misdemeanor  
9 26 is punishable by confinement for no more than two years and a  
9 27 fine of at least \$625 but not more than \$6,250.

9 28 An appropriation is provided to the department of human  
9 29 services for a child care workgroup. The state child care  
9 30 advisory council is designated to serve as the workgroup. The  
9 31 workgroup is required to address possible implementation of a  
9 32 mandatory system of registration or licensure for home-based  
9 33 child care providers or a voluntary licensure system and  
9 34 numerous other child care issues. The workgroup is required  
9 35 to report to the governor and general assembly on or before  
10 1 December 15, 2008.

10 2 FISCAL YEAR 2009=2010 REQUIREMENTS. This division relates  
10 3 to requirements to be implemented during FY 2009=2010.

10 4 Code section 237A.3, relating to requirements for  
10 5 unregistered child care homes, is amended to prohibit a child  
10 6 care home from operating unless the provider and anyone  
10 7 residing with the provider has been subject to a  
10 8 fingerprint-based national criminal history record check as  
10 9 required by the bill. Violation of this requirement is a  
10 10 simple misdemeanor under Code section 237A.19 and each day may  
10 11 be a separate offense. A simple misdemeanor is punishable by  
10 12 confinement for no more than 30 days or a fine of at least \$65  
10 13 but not more than \$625 or by both. In addition, the provider  
10 14 may be restrained by temporary or permanent injunction under  
10 15 Code section 237A.19.

10 16 Code section 237A.5, relating to criminal history and child  
10 17 abuse record check requirements for child care providers, is  
10 18 amended to apply the record check requirements to all  
10 19 unregistered child care homes. Current law applies the  
10 20 requirement only to child care homes that receive public  
10 21 funding. In addition, a fingerprint-based national criminal  
10 22 history record check is required for all registered,  
10 23 unregistered, and licensed child care providers. The cost of  
10 24 the fingerprint-based record check is the responsibility of  
10 25 the department of human services except for unregistered child  
10 26 care homes which are required to pay the cost for the provider  
10 27 and those who are residing or will reside with the  
10 28 unregistered provider.

10 29 This division takes effect July 1, 2009.

10 30 IMPLEMENTATION. This division addresses the state mandate  
10 31 law. The bill may include a state mandate as defined in Code  
10 32 section 25B.3. The bill makes inapplicable Code section  
10 33 25B.2, subsection 3, which would relieve a political  
10 34 subdivision from complying with a state mandate if funding for  
10 35 the cost of the state mandate is not provided or specified.

11 1 Therefore, political subdivisions are required to comply with  
11 2 any state mandate included in the bill.

11 3 LSB 5970HV 82

11 4 jp/nh/5